

DRAFT - January 10, 2005

SENATE FILE NO. SF0041

Wildlife and natural resource funding act.

Sponsored by: Joint Travel, Recreation, Wildlife and
Cultural Resources Interim Committee

A BILL

for

1 AN ACT relating to natural resources; establishing a
2 Wyoming wildlife and natural resource trust account and an
3 income account; specifying uses of the account;
4 establishing procedures for expenditures from the account;
5 providing appropriations; providing for future recommended
6 appropriations; establishing a board and providing for
7 duties and other administration of the account; specifying
8 legislative findings; and providing for an effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 9-15-101 through 9-15-106 are created
13 to read:

14

15 **9-5-101. Short title.**

16

1 This act shall be known and may be cited as the "Wyoming
2 Wildlife and Natural Resource Funding Act."

3

4 **9-15-102. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Board" means the Wyoming wildlife and
9 natural resource trust account board created by W.S.
10 9-15-104;

11

12 (ii) "Income account" means the Wyoming wildlife
13 and natural resource trust income account created by W.S.
14 9-15-103(b);

15

16 (iii) "Large project" means a project for which
17 the grant sought under this act equals or exceeds five
18 hundred thousand dollars (\$500,000.00);

19

20 (iv) "Small project" means a project for which
21 the grant sought under this act is less than five hundred
22 thousand dollars (\$500,000.00);

23

1 (v) "Trust account" means the Wyoming wildlife
2 and natural resource trust account created by W.S.
3 9-15-103(a);

4

5 (vi) "This act" means W.S. 9-15-101 through
6 9-15-106.

7

8 **9-15-103. Wyoming wildlife and natural resource trust**
9 **account created; income account created; expenditures;**
10 **purposes.**

11

12 (a) A trust account is created to be known as the
13 Wyoming wildlife and natural resource trust account. The
14 trust account shall consist of those funds designated to
15 the account by law and all monies received from federal
16 grants and other contributions, grants, gifts, transfers,
17 bequests and donations to the trust account. The trust
18 account is specifically empowered to accept grants, gifts,
19 transfers, bequests and donations including those which are
20 limited in their purposes by the grantor. ~~Notwithstanding~~
21 ~~W.S. 36-2-101 or other law to the contrary, title to any~~
22 ~~interest in property conveyed to the trust account shall be~~
23 ~~in the name of the board.~~ Title to any interest in any real property
24 conveyed to the trust account shall be held in the name of the state of Wyoming and

1 **shall be administered by the board of land commissioners to further the purposes of**
2 **this act. *Together, the above amendments are meant to remove control, over any***
3 ***property conveyed to the trust, from the board to the board of land commissioners.***

4 Funds deposited within the trust account are intended to be
5 inviolate and constitute a perpetual trust account which
6 shall be invested by the state treasurer as authorized
7 under W.S. 9-4-711 and in a manner to obtain the highest
8 return possible consistent with preservation of the account
9 corpus.

10

11 (b) The state treasurer shall credit annually to a
12 Wyoming wildlife and natural resource trust income account
13 the interest earned from investment of the trust account
14 corpus. Until June 30, 2008, the legislature may, from
15 time to time, appropriate funds directly to the income
16 account for distribution in accordance with the terms of
17 this act. Such specially appropriated funds shall be
18 credited directly by the state treasurer to the income
19 account and are available to the board for award of grants
20 as otherwise permitted by this act.

21

22 (c) Individuals and other entities may also grant,
23 give, transfer, bequest or donate funds to the trust
24 account or the income account. Such funds shall be

1 credited by the state treasurer to either the trust account
2 or the income account, as appropriate, in a manner
3 consistent with the conditions attached to their receipt.
4

5 (d) The board may expend funds from the income account
6 for staffing and other administrative expenses authorized
7 under this act. Additional disbursements from the income
8 account shall be for the following purposes:
9

10 (i) Improvement and maintenance of existing
11 terrestrial habitat necessary to maintain ~~native~~ wildlife
12 populations; *The removal of the word "native" allows for certain "non-native"*
13 *species, such as the pheasant, to benefit from the trust fund (see below also).*
14

15 (ii) Improvement and maintenance of existing
16 aquatic habitat necessary to maintain ~~native~~ fish
17 populations;
18

19 (iii) Acquisition of terrestrial or aquatic
20 habitat when existing habitat is determined critical, or is
21 present in minimal amounts, and acquisition presents the
22 necessary factor in attaining or preserving desired ~~native~~
23 wildlife or fish population levels. **No funds shall be disbursed**
24 **under this act for fee title acquisition of real property by the state of Wyoming or**

1 **any state agency; *This amendment forbids the state from acquiring land, in fee title,***
2 ***with trust funds.***

3
4 (iv) Conservation, maintenance, protection and
5 development of ~~native~~ nongame wildlife resources;

6
7 (v) Participation in water storage projects, **in**
8 **conjunction with the Wyoming Water Development Commission, ~~for wildlife~~**
9 **~~and instream flow purposes~~ to ensure aquatic habitat for fish populations**
10 **and allow for other watershed enhancements that benefit wildlife; *This amendment***
11 ***calls on the board to seek the counsel and existing framework of the WWDC prior to***
12 ***funding any water storage project with trust funds. It also supplants potentially***
13 ***problematic language – “instream flow” – and replaces it with more benign language.***

14
15 (vi) To address and mitigate impacts associated
16 with residential, mineral and industrial development on
17 natural resources;

18
19 **(vii) To mitigate conflicts between wildlife and domestic livestock; or**
20 ***This amendment allows for trust fund dollars to be expended to solve issues that might***
21 ***occur when wildlife and domestic livestock compete for finite habitat resources.***

1 (viii) To limit the commingling of wildlife and domestic livestock to
2 reduce the potential for disease transmission. *Commingling can and does lead to*
3 *disease transmission. To this end, during the Brucellosis Coordination Team*
4 *meetings, the Team agreed that habitat improvement might be a necessary tool to fight*
5 *the disease.*

6
7 (e) No funds shall be made available under this act for the reintroduction of
8 any native or nonnative game or nongame species pursuant to the Endangered
9 Species Act. *This amendment is meant to limit expenditure of fund dollars in the realm*
10 *of ESA reintroductions, such as the wolf.*

11
12 ~~(e)~~(f) The board shall not have the power of eminent
13 domain and only has the power to accept or dispose of an
14 interest in property, whether in fee, by way of easement,
15 or otherwise, when the transaction with the board is that
16 of a willing conveyor of the interest.

17
18 9-15-104. Wildlife and natural resource trust account
19 board established; terms; meetings; duties.

20
21 (a) There is created the Wyoming wildlife and natural
22 resource trust account board. The board shall consist of
23 ~~seven—(7)~~ nine (9) members appointed by the governor and

1 confirmed by the senate, who are residents of Wyoming. **The**
2 **members shall be appointed from each of the appointment districts set forth at W.S.**
3 **5-3-101. In making appointments to the board, the governor shall appoint one (1)**
4 **representative from each of the following: wildlife advocacy interests, agriculture,**
5 **the mineral industry, sportsmen, local government and the tourism industry. The**
6 **governor shall also appoint three (3) representatives from the general public.** Not
7 more than ~~four (4)~~ **five (5)** members shall be of the same
8 political party.

9
10 (b) Except for the initial board, each appointed
11 member of the board shall serve for a term of three (3)
12 years. Of the initial appointees, ~~two (2)~~ **three (3)** members
13 shall be appointed for one (1) year, ~~two (2)~~ **three (3)** members
14 shall be appointed for two (2) years and three (3) members
15 shall be appointed for three (3) years. The governor may
16 remove any member as provided in W.S. 9-1-202. Any vacancy
17 occurring between sessions of the legislature may be filled
18 by the governor as provided under W.S. 28-12-101(b). The
19 board shall select one (1) of its members to serve as
20 chair. *The above amendments are meant to align board member selection with the*
21 *nine judicial districts. It is also meant to meet the agricultural industry's request that*
22 *the governor seek balance in making appointments to the board.*

1 (c) Administration of any ~~property-held~~ funds administered
2 by the board shall be by the secretary to the board, who
3 shall be employed by the board. The secretary shall not be
4 housed in any agency which may be a grantee under this act.
5 The secretary to the board shall further act as liaison for
6 the board to other state, federal and local governmental
7 agencies, as well as nonprofit organizations. *The above*
8 *amendment follows previous amendments relative to the administration of lands*
9 *acquired through the act. In accordance with suggestions from the Governor and the*
10 *agricultural industry, together with the state's existing legal requirements for land*
11 *ownership, all lands will be held and administered by the board of land commissioners.*

12 (d) The board shall meet regularly. Members shall
13 serve without compensation but shall be reimbursed for
14 expenses incurred in the performance of their duties in the
15 manner and amounts provided by law for state employees.

16

17 (e) The board shall receive and evaluate applications
18 for grants from the income account. The board shall review
19 applications, approve projects and assure compliance with
20 the terms of grants. The board may approve grants from the
21 account for small projects. Funds for small projects are
22 continuously appropriated from the income account for
23 grants approved by the board. The board may recommend to
24 the governor the funding of large projects. No funds shall

1 be expended for large projects except upon specific
2 legislative appropriation of funds from the income account.

3

4 (f) The board shall adopt rules and regulations in
5 accordance with the Wyoming Administrative Procedure Act as
6 necessary to carry out its duties under this act, including
7 rules to:

8

9 (i) Establish criteria for grants from the
10 income account which accomplish the purposes of this act;

11

12 (ii) Establish criteria for matching funds or
13 other in-kind contributions from grantees;

14

15 (iii) Evaluate, rank and prioritize grant
16 proposals;

17

18 (iv) Review and monitor grants to grantees;

19

20 (v) Emphasize citizen access for hunting,
21 fishing and recreation activities;

22

1 (vi) Establish criteria for the acceptance or
2 rejection of gifts, transfers, bequests and donations
3 including interest in real or personal property;
4

5 (vii) Consider other necessary matters.
6

7 (g) In fulfilling its duties under this act the board
8 may:
9

10 (i) Consult with the game and fish commission,
11 the department of state parks and cultural resources and
12 the department of agriculture, as well as other
13 governmental agencies and nonprofit organizations, as
14 necessary;
15

16 (ii) Accept or decline federal grants and other
17 contributions, grants, gifts, transfers, bequests and
18 donations from any source.
19

20 (h) The board shall annually report to the governor,
21 the joint appropriations interim committee and the joint
22 travel, recreation, wildlife and cultural resources interim
23 committee no later than October 1 with respect to all
24 federal grants, state appropriations and other

1 contributions, grants, gifts, bequests and donations
2 received and credited to the trust account and income
3 account during the preceding fiscal year. The report shall
4 include grants awarded by the board to nonprofit and
5 governmental organizations and progress made toward the
6 condition of any grant made.

7

8 (j) The governor shall include in his proposed state
9 budget submitted in accordance with W.S. 9-2-1013, his
10 recommendations for funding from the income account of
11 projects submitted by the board under this section. Until
12 the corpus of the trust account exceeds two hundred million
13 dollars (\$200,000,000.00) the governor may also include in
14 his proposed state budget recommendations for additional
15 funding of the corpus of the trust account. Through the
16 fiscal year ending June 30, 2008, the governor may also
17 include in his proposed state budget recommendations for
18 additional funding of the income account.

19

20 **9-15-105. Grant applications; eligible entities.**

21

22 (a) The board may only grant funds to nonprofit and
23 governmental organizations. Pursuant to W.S. 9-15-103(d), the board
24 shall award grants to promote, preserve and enhance the

1 unique wildlife, ~~and~~ environmental ~~and natural resource~~ heritage
2 of Wyoming and its people. The board shall have the
3 discretion to determine the amount of each grant and any
4 conditions attached to the grant ~~subject to W.S. 9-15-103(d)~~. For
5 the purposes of this act, a grant may include the
6 acquisition of an interest in real or personal property.

7 ~~This act does not alter the law of Wyoming regarding the primacy of the mineral~~
8 ~~estate. This amendment is meant to reiterate the primacy of the mineral estate in~~
9 ~~Wyoming law and the approved purposes of grant expenditures.~~

10
11 (b) Grants by the board are not intended to provide a
12 supplement to, or replacement of, the operating budget of
13 any governmental agency or nonprofit organization except as
14 those funds are directly related to the purposes of the
15 grant.

16
17 **9-15-106. Audits.**

18
19 The director of the department of audit or his designee
20 shall audit the trust account biennially. Copies of the
21 audit shall be provided to the governor, the joint
22 appropriations interim committee and the joint travel,
23 recreation, wildlife and cultural resources interim
24 committee.

1

2

Section 2.

3

4

(a) The legislature finds:

5

6

(i) Wyoming possesses a unique wildlife, ~~and~~
environmental **and natural resource** heritage;

8

9

(ii) Wyoming's unique wildlife, ~~and~~
environmental **and natural resource** heritage is vital to our
citizens' quality of life and our state's economy, now and
for future generations; *The above amendments reiterate the importance of
natural resources in Wyoming's history and future.*

14

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23

~~(iii) The development of Wyoming's mineral
resource endowment will be enhanced by allocating state
resources to the maintenance and improvement of wildlife
and wildlife habitat;~~ This act should not be construed to restrict
continued development of Wyoming's mineral resource endowment. Improving
marginal wildlife habitat will provide increased opportunity for additional mineral
development to move forward and will help to preclude the listing of species under
the Endangered Species Act, which would otherwise serve to impede the
development of those minerals; *The above amendments demonstrate the benefit of the*

1 *fund relative to mineral development. With better habitat available, mineral*
2 *development will be able to move forward more efficiently.*

3

4 (iv) Citizens' access to outdoor recreation,
5 hunting and fishing, particularly on public lands, is a
6 significant priority in Wyoming;

7

8 (v) Continued reliance on sportsmen's license
9 fees and limited grants from the federal government is
10 inadequate to maintain Wyoming's unique wildlife and
11 environmental heritage.

12

13 (b) It is the purpose of this act to promote,
14 preserve and enhance this unique Wyoming heritage by
15 creating a Wyoming wildlife and natural resource trust
16 account administered by a citizen board to coordinate
17 public and private donations and manage distribution of the
18 investment earnings from the trust account.

19

20 **Section 3.**

21

22 (a) There is appropriated seventy-five million
23 dollars (\$75,000,000.00) from the budget reserve account to
24 the Wyoming wildlife and natural resource trust account.

The amount of money set aside to fund the trust account has been initially set at \$75 million. The Governor believes that the actual amount of money allocated in the bill is less important than establishing the concept of the act.

(b) There is appropriated from the budget reserve account to the Wyoming wildlife and natural resource income account one hundred thousand dollars (\$100,000.00) to provide staffing and expenses of the wildlife and natural resource account board as authorized under this act for the fiscal period commencing July 1, 2005 and ending June 30, 2006.

Section 4. This act is effective July 1, 2005.

(END)